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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,413	03/21/2001	Larry Davis	56139998-2	2395
26453	7590	01/04/2005	EXAMINER	
BAKER & MCKENZIE 805 THIRD AVENUE NEW YORK, NY 10022			BRAHAN, THOMAS J	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/813,413	DAVIS, LARRY	
	Examiner	Art Unit	
	Thomas J. Brahan	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-25 is/are pending in the application.
- 4a) Of the above claim(s) 22-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 15, 19-21 and 25 is/are rejected.
- 7) ☒ Claim(s) 9-14 and 16-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 22-24 remain withdrawn from consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made without traverse in Paper No. 8.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 20 and 25 are rejected under 35 U.S.C. § 102(b) as being anticipated by JP 60-56793. JP '793 shows a tower crane device comprising:

a basket (21) supporting a tower crane (11); and

a plurality of support stubs (35 or the brackets at 35) with each support stub attached to one of a plurality of respective vertical steel columns (P) of a structure under construction, wherein the basket rests on the support stubs.

The basket includes a plurality of outriggers (14) attached to the basket and spaced apart from each other and supported by a support stub, as recited in claims 2 and 4. Clamps (34) secure the basket to the stub, as recited in claim 3. The support stubs are shown as angled members, see figure 12, as recited in claims 5 and 25. JP '763 has a second basket (22) which slides with respect to a tower (3) and is supported on additional support stubs, as recited in claims 8 and 20.

Claims 1, 2, 7, 8, 15, 19, and 20 are rejected under 35 U.S.C. § 102(b) as being anticipated by James et al. James et al shows a tower crane device comprising:

a basket (24) supporting a tower crane (16); and

a plurality of support stubs (42) with each support stub attached to one of a plurality of respective vertical steel columns (12) of a structure under construction, wherein the basket rests on the support stubs.

The basket includes a plurality of outriggers (44) attached to the basket and spaced apart from each other and supported by a support stub, as recited in claim 2. The basket has an upper frame (47, 47), a larger outer frame (32, 36, 38) and arms (46) coupling the upper frame to the lower frame, as recited in claim 7. The crane has a second basket (26) as recited in claim 8. Pins (40) are feet which rest on the stubs in compression, as recited in claim 19. James et al has an upper basket (26) slidably coupled to the tower crane, and mounted on support stubs, as recited in claim 20.

Claim 21 is rejected under 35 U.S.C. § 102(b) as being anticipated by Cannella. Figures 14 and 15 of Cannella

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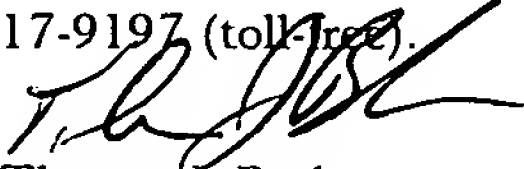
show a tower crane device for a concrete structure comprising a basket (620/635/640) operable to support a tower crane, a plurality of outriggers (635A, 635B, 640A, 640B) attached to the basket and spaced apart from each other, each outrigger having a foot (bolts such as 665), and a plurality of support holes (at 664) disposed in the concrete structure which each hole receiving a respective outrigger foot. Figure 16 shows a similar crane with a central basket, outriggers (the two extendable frames similar to 635 and 640 of figure 14) and outrigger feet extending into holes in the concrete structure.

Claims 9-14 and 16-18 are objected to as depending from a rejected claims but would be allowable if rewritten in independent form including all of the limitations of the base claim and the intervening claims.

Applicant argues in the amendment filed October 8, 2004, that James et al has brackets with pins, not stubs and that its basket does not rest on the stubs. The pins rest on the brackets as to have the basket's pins resting on the stubs; note the claims do not require that the baskets rests on the uppermost surface of the stub. Note also that applicant's basket does not rest directly on the stubs. Applicant argues that Cannella does not show feet extending into holes of the concrete structure. However as detailed above, the term "feet" can be used to describe the members of the last two embodiments which are shown extending into holes in the concrete structures. The amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (703) 308-2568. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for all patent applications is (703) 872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 12/20/04
Thomas J. Brahan
Primary Examiner
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